

Before the  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Competitive Product Prices  
Priority Mail  
Priority Mail Contract 36

Docket No. MC2012-2

Competitive Product Prices  
Priority Mail Contract 36 (MC2012-2)  
Negotiated Service Agreement

Docket No. CP2012-6

PUBLIC REPRESENTATIVE COMMENTS

(January 6, 2012)

**Introduction**

In response to Order 1071,<sup>1</sup> the Public Representative hereby comments on the December 20, 2011 United States Postal Service Request to Add Priority Mail Contract 36 to the Competitive Product List (Request).

The Public Representative has accessed and reviewed all materials submitted by United States Postal Service including under seal (not redacted) documentation. Because this NSA employs the same underlying Governors' Decision 09-6 costing formula, the analysis is virtually the same. Although, the Public Representative finds that the contract is expected to meet the requirements of 39 U.S.C. 3633(a), the Public Representative has three concerns, which are discussed below.

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<sup>1</sup> Commission Order 1071, Notice and Order Concerning Addition of Priority Mail Contract 35 Negotiated Service Agreement to the Competitive Product List, December 20, 2011.

## Concerns

*Potential for Insufficient Cost Coverage.* In Governors' Decision No. 09-6, the Postal Service establishes minimum and maximum cost coverages for Priority Mail Contracts. In the instant docket, the Postal Service's supporting worksheets indicate that the instant contract's cost coverage is expected to fall within the minimum and maximum range. The Postal Service uses supporting worksheets from FY 2010 to conduct its analysis. When the analysis is updated with FY 2011 supporting worksheets<sup>2</sup>, the cost coverage falls below the minimum cost coverage required in Governors' Decision 09-6.<sup>3</sup> However, the expected cost coverage remains slightly above 100 percent. Such a low expected cost coverage increases the likelihood that the contract will not cover its costs in future years. The Commission should require additional reporting throughout each contract year to ensure the contract is on track to meet the requirements of 39 U.S.C. 3633(a)(2). In light of the FY 2011 cost data, the Postal Service may also wish to renegotiate this contract to increase the likelihood of profitability.

*Unsupported Unit Cost Adjustment.* The instant Priority Mail Contract indicates that the Postal Service will provide packaging to the contract partner. This contract term suggests that the contract's packaging cost should at least be equal to the average Priority Mail packaging cost. However, the accompanying workpapers adjusts the partner's packaging costs downward to indicate that the contract's packaging costs will be less than the average packaging unit cost for all Priority Mail.<sup>4</sup> The Postal Service has not provided an explanation or support for this adjustment. The Postal Service

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<sup>2</sup> See USPS-FY2011-NP-27, file: SupportPriority\_FY11.xls.

<sup>3</sup> Since the Postal Service filed the contract prior to filing its FY 2011 data, using FY 2010 data is appropriate. However, since the FY 2011 data was recently filed, the Public Representative believes it is useful to analyze the contract with FY 2011 data in addition to FY 2010 data.

<sup>4</sup> The inclusion or exclusion of this adjustment does not materially affect the cost coverage of the instant contract. However, if there are several unexplained cost adjustments within a contract analysis, the potential for larger impacts on cost coverage is possible. Therefore, all cost adjustments should be explained within the supporting workpapers.

should explicitly state why this cost adjustment is reasonable. In the future, providing explanations for each cost adjustment will improve transparency and should accelerate the Commission's as well as the public's review of the contract and its supporting documentation.

*Outdated Inflation Factors.* The Postal Service's workpapers use Global Insight inflation forecasts from November 2011. When the Postal Service filed the instant contract analysis with the Commission, the December 2011 Global Insight forecasts were available.<sup>5</sup> While the forecasts typically have only small variations between months, the Postal Service should use the most recent forecast available to ensure that its analysis is current.

## **Conclusion**

This NSA appears to minimally comport with each of the requirements of 39 CFR 3015.7(c) -- which amplifies 39 U.S.C. 3633(a). For a competitive products pricing schedule not of general applicability,<sup>6</sup> the Postal Service must demonstrate that the contract will be in compliance with 39 U.S.C. 3633(a): It will not allow market dominant products to subsidize competitive products, it will ensure that each competitive product covers its attributable costs; and it will enable competitive products as a whole to cover their costs (contributing a minimum of 5.5 percent to the Postal Service's total institutional costs).

The Public Representative expects that the pricing in the present Priority Mail Contract 36 will comport with provisions of 39 U.S.C. 3633(a). However, the Commission should consider the concerns discussed in these Comments.

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<sup>5</sup> See Docket No. CP2012-7 supporting workpapers filed on December 20, 2011.

<sup>6</sup> See 39 CFR 3015.5.

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Natalie R. Ward  
Public Representative

901 New York Ave., NW Suite 200  
Washington, D.C. 20268-0001  
(202) 789-6864; Fax (202) 789-6861  
e-mail: [natalie.ward@prc.gov](mailto:natalie.ward@prc.gov)